

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

2013 NOV 22 P 12:45

CLERK OF COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY

JOHN P. JOHNSON,
Plaintiff ProSe'

v.

MICHAEL J. SCOTT P.C.,
Defendant
FIA CARD SERVICES,
Co-Defendant
BANK OF AMERICA,
Defendant

Case No: SA12CA1117 FB

**Civil Rights Violation Complaint
Trial By Jury Demanded**

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**MOTION TO COMPEL DEFENDANTS' ANSWERS TO PLAINTIFFS'
REQUEST ADMISSIONS, INTERROGATORIES AND PRODUCTION
OF DOCUMENTS**

Plaintiff hereby moves this Honorable Court to enter an appropriate Order against the Defendant, MICHAEL J. SCOTT P.C., pursuant to Rule 37 of the Federal Rules of Civil Procedure, and in support aver as follows:

1. On or about September 11, 2013 Plaintiff forwarded his request for Admissions, Interrogatories and Production of Documents to the office of counsel for the Defendant Michael J. Scott P.C.
2. On or about October 18, 2013 Plaintiff received Defendant's answers to his requests for Admissions, Interrogatories and Production.

3. Defendant, Michael J. Scott P.C. has failed to provide full and complete answers to Plaintiffs' requests for Admissions, Interrogatories and Production of requested documents, variously citing attorney-client privilege, burdensome, irrelevant and unlikely to lead to discovery of admissible evidence or no knowledge of FIA Card Services or the now defunct North Star Capital Acquisition.

4. Defendant has failed to produce any document that authorizes the law firm of Michael J. Scott P.C. to collect any monies from Plaintiff whatsoever.

5. Defendant has failed to produce any document that they were in fact representing North Star Capital Acquisition, FIA Card Services, Bank of America or any other institution which Plaintiff allegedly owes money to.

6. Defendant has refused to answer Interrogatories beyond Interrogatory #14 claiming that Plaintiff has exceeded his allotted number of Interrogatories.

7. Defendant has failed to provide any meaningful information whatsoever with regard to North Star Capital Acquisition, a company they claimed to be collecting for when they initially contacted Plaintiff. Counsel for Defendant has advised Plaintiff that Defendant Michael J. Scott P.C. has no contact information whatsoever for North Star Capital Acquisition, a former client of theirs.

8. Defendant Michael J. Scott P.C. has provided documents that are of little or no value to Plaintiff, and did not provide any of the documents that Plaintiff specifically requested for Production.

9. The information sought by these discovery requests is essential to Plaintiff's

preparation for trial.

I. Argument

In order to receive the protection of attorney-client privilege, a communication must, *inter alia*, be made for the purpose of securing primarily either (i) an opinion on law, (ii) legal services, or (iii) assistance in some legal proceeding. The privilege does not extend to the provision of business or other non-legal advice simply because a lawyer happens to be involved. Communications with a lawyer that relate primarily to non-legal purposes, for example, business, technical or corporate public relations purposes are not privileged.

The party asserting a privilege has the burden of establishing the privilege. The Federal Rules of Civil Procedure require that a party's claim of privilege shall be made expressly and "supported by a description of the nature of documents . . . that is sufficient to enable the demanding party to contest the claim." Here, the Defendant has not even tried to establish the privilege and furthermore the Defendant has offered to provide those documents for Plaintiffs review if Plaintiff were to sign a protective order.

Why would a Defendant claim privilege while offering to provide the discovery if the Plaintiff were to sign a protective order? The only logical reason is to delay discovery!

II. REQUESTED RELIEF

The Plaintiff requests that Michael J. Scott P.C. fully and completely answer all Admissions submitted by Plaintiff.

The Plaintiff requests that Michael J.Scott P.C. fully and completely answer all Interrogatories submitted by Plaintiff.

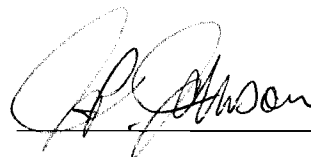
The Plaintiff requests that Michael J. Scott P.C. be ordered to immediately provide copies of the information requested by the Plaintiff's Request for Production.

The Plaintiff requests that Michael J. Scott P.C. be ordered to immediately provide a log for the remaining documents that it has withheld under claim of privilege.

The Plaintiffs also request that the Court order Michael J.Scott P.C. to immediately produce a privilege log for the documents Michael J. Scott P.C. claimed to be privileged as this will show whether Michael J. Scott P.C. intended to delay discovery.

In the alternative, the plaintiffs request that Michael J. Scott P.C. provide these documents to the Court for *in camera* review on the issue of privilege. In this case, where the volume of documents currently contested is not large and the defendant has not carried its burden of establishing privilege, *in camera* review to determine whether the documents are in fact privileged is appropriate. (documents which are claimed to be privileged should normally be produced for inspection by the judge in camera.”)

Respectfully,

A handwritten signature in black ink, appearing to read "John P. Johnson", is written over a horizontal line.

John P. Johnson Plaintiff Pro Se'

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210-842-7851


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CERTIFICATE OF SERVICE

I, John P. Johnson, Plaintiff pro se, do hereby certify that on the 22nd Day of November, 20 13, a true and correct copy of the foregoing pleading was forwarded to Robbie Malone, the attorney for (Defendant) by (State the manner of delivery - eg. U.S. Mail; Hand Delivery; Certified Mail) at the following address: (give address of Attorney for the Defendant).

Robbie Malone PLLC
Northpark Central, Suite 1850
8750 North Central Expressway
Dallas, TX 75231

Dated: 22 Nov 13


Signature of Plaintiff

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ORDER

WHEREFORE, upon consideration of the Motion to Compel Discovery filed by Plaintiff it is hereby ORDERED that Defendant Michael J. Scott P.C. shall file full and complete answers to Plaintiffs' Request for and Admissions and Interrogatories and shall provide all requested documents for inspection by Plaintiff or the Judge.

SIGNED AND ENTERED this _____ day of November 2013.

Signed _____